

# RESTORE HETCH HETCHY

*Yosemite National Park*

January 24, 2024

Cicely Muldoon, Superintendent  
Yosemite National Park

Re: Proposed MOA between the SFPUC and the NPS

Dear Superintendent Muldoon,

Restore Hetch Hetchy (“RHH”) has reviewed the proposed Memorandum of Agreement (“MOA”) between the San Francisco Public Utilities Commission (“SFPUC”) and the National Park Service (“NPS”), as presented for approval at the SFPUC meeting on January 23, 2024. We are pleased that SFPUC and NPS cooperate to apply provisions of the Raker Act that protect San Francisco’s water quality as well as the public’s right to enjoy the Hetch Hetchy area and Tuolumne River watershed within Yosemite National Park (“YNP”).

We find, however, that the proposed MOA, in its current form, does not accurately reflect the water quality protections of the Raker Act. Rather, the proposed MOA disregards Section (9)(a)(5) of the Raker Act in two ways:

- First, by implication and effectively in practice, SFPUC is asking for and NPS is granting water quality protections in addition to those listed in Sections (9)(a)(1-4) of the Raker Act, and
- Second, the Raker Act requires that if SFPUC finds that the protections listed in sections (9)(a)(1-4) are “insufficient to protect the purity of the water supply, then the said grantee shall install a filtration plant or provide other means to guard the purity of the water”. NPS therefore has no business protecting SFPUC’s filtration avoidance beyond the Raker Act’s specific mandates and any other measures in place throughout Yosemite National Park and its wilderness areas.

We do recognize that there are important improvements to the text on page 2 of the proposed new MOA. The proposed MOA states that the “watershed protection program” (to avoid filtration) is a requirement for the SFPUC



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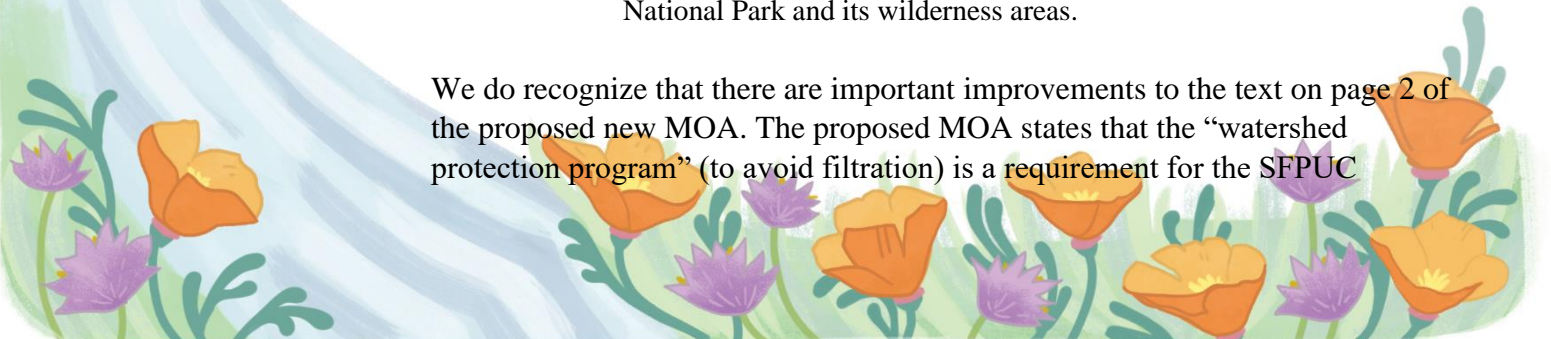
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(and no longer describes it as a goal for both parties). Further, the proposed MOA no longer states that NPS “can control all human activities”, seemingly recognizing the Raker Act’s limitations. Restore Hetch Hetchy appreciates these changes.

The proposed MOA still states, however, that filtration avoidance regulations are “relevant” and are still included as Appendix B. NPS, however, bears no responsibility for protecting SFPUC’s filtration exemption and in fact is precluded by law from actively doing so. Why should NPS be party to a document emphasizing filtration avoidance?

Water quality provisions of the MOA should state plainly that the NPS objectives are limited to those either (1) expressly included in the Raker Act or (2) otherwise in place in Yosemite National Park and its wilderness areas.

Let’s be clear. RHH supports high quality water for all urban agencies and appreciates SFPUC’s commitment to provide high quality water for its customers. Requiring NPS to go beyond the provisions of the Raker Act, however, contravenes the Act and discriminates against park visitors, who have a right to enjoy the bounty of Yosemite National Park as provided by the Raker Act and other federal statutes.

During a meeting with NPS staff on June 1, 2023, Restore Hetch Hetchy sought unsuccessfully to discuss the revised MOA. On June 19, 2023, we renewed that request in writing, asking both NPS and SFPUC to release a draft MOA for public review. On September 26, we made recommendations in a Petition to NPS and DOI which included removal of the MOA’s Appendix B - Filtration Avoidance Regulations.

On January 23, 2004 (yesterday), when approval of the proposed MOA was being considered by the SFPUC, Assistant General Manager Steve Ritchie responded to Commissioner Ajami’s query by stating that NPS is “responsible for public input” and that public input is “done under federal law” (See attachment for transcript and video link). Mr. Ritchie’s statement that public input was NPS’s responsibility provides additional justification for our request to comment on the MOA while it is in draft form.

Restore Hetch Hetchy asks NPS to decline the MOA as proposed and to accept public input that will assure a robust final document which closely and clearly adheres to the provisions of the Raker Act.

Thank you for considering this request.

Sincerely,

Spreck Rosekrans  
Executive Director

Cc: President Tim Paulson, San Francisco Public Utilities Commission